

# IOWA DEPARTMENT OF NATURAL RESOURCES

## ADMINISTRATIVE CONSENT ORDER

<b>IN THE MATTER OF:</b>	
<b>BARKER SPECIALTY PRODUCTS, LLC</b>	<b>ADMINISTRATIVE CONSENT ORDER</b>
<b>NPDES Permit Discharge Authorization Number: 0585-0629</b>	<b>2014-WW- 05</b>

**TO: Barker Specialty Products, LLC  
c/o Jake Syfert, Plant Manager  
703 Franklin Street  
Keosauqua, Iowa 52565**

**Barker Specialty Products, LLC  
c/o Iowa Secretary of State  
Lucas State Office Building  
321 East Walnut  
Des Moines, Iowa 50319**

### I. SUMMARY

The Iowa Department of Natural Resources (Department) and Barker Specialty Products, LLC (Barker) hereby agree to the following Administrative Consent Order (Order). Barker agrees to comply with all provisions of National Pollutant Discharge Elimination System (NPDES) General Permit No. 1 (0585-0629), including continued implementation of the storm water pollution prevention plan (SWPPP), and pay an administrative penalty of \$3,000 to the Department. See Sections IV and V for more details.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Jeff Prier  
Iowa Department of Natural Resources  
1023 West Madison  
Washington, Iowa 52353  
Ph: 319/653-2135  
jeff.prier@dnr.iowa.gov

**Relating to legal requirements:**

Aaron Brees, Attorney  
Iowa Department of Natural Resources  
502 East 9th Street  
Des Moines, Iowa 50319-0034  
Ph: 515/281-5965  
aaron.brees@drn.iowa.gov

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East 9th Street  
Des Moines, Iowa 50319-0034

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## II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

## III. STATEMENT OF FACTS

The Department and Barker hereby agree to the following statement of facts:

1. Barker operates an industrial facility (the facility) at 703 Franklin Street, Keosauqua, Iowa.
2. The facility operates subject to the terms of NPDES General Permit No. 1, discharge authorization #0585-0629, which was issued October 1, 1992.
3. On May 17, 2013, Jeff Prier, Environmental Specialist Senior at Department Field Office 6, conducted a routine inspection of the facility. During the inspection, Mr. Prier asked plant manager Jake Syfert for a copy of the facility's SWPPP which is required under the NPDES permit. Mr. Syfert stated that the facility did not have a SWPPP and no SWPPP was provided to Mr. Prier.
4. Mr. Prier later conducted a follow up inspection and determined that Barker had developed and implemented a SWPPP as required.

## IV. CONCLUSIONS OF LAW

The parties hereby agree that the following conclusions of law are applicable to this matter:

1. Iowa Code 455B.103A authorizes the issuance of general permits for storm water discharges. The Environmental Protection Commission (Commission) has adopted federal regulations pertaining to the issuance of NPDES permits for storm water discharge at 567 IAC 60.2 and 567 IAC 64.
2. 567 IAC 64.3(1) provides that no one shall operate a wastewater disposal system "...without, or contrary to any condition of, an operation permit issued by the director." NPDES General Permit No. 1 is "an operation permit issued by the director."

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3. NPDES General Permit No. 1, Part III.C. states that a SWPPP shall be developed for the facility, the SWPPP shall be implemented concurrently with operations at the facility, and the Department may review the SWPPP at any time.

4. Barker's failure to develop and institute a SWPPP is contrary to a condition of its operation permit (NPDES General Permit No. 1) and is therefore a violation of 567 IAC 64.3(1).

**V. ORDER**

THEREFORE, the Department hereby orders and Barker agrees to the following:

1. Barker shall pay to the order of the Department an administrative penalty of \$3,000 within 30 days of receipt of this Order.
2. Barker shall comply with all conditions of NPDES General Permit No. 1, 0585-0629, including implementation of the SWPPP.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties in Iowa District Court of up to \$5,000 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC 10. Pursuant to this rule, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with a penalty.

**ECONOMIC BENEFIT:** Barker has saved money by not using staff time or hiring a consultant to develop, implement, and maintain a SWPPP. The actual economic benefit is difficult to determine; however given that the SWPPP violation has been ongoing for many years, a conservative estimate of 40 hours of avoided staff time at \$25 per hour is applied, yielding a penalty amount of \$1,000.

**GRAVITY:** Barker has been operating under NPDES General Permit No. 1 for over twenty years without instituting a SWPPP. The amount of damage to the environment, if any, is unknown at this time. A penalty of \$1,000 is assessed for this factor.

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**CULPABILITY:** Barker has, or should have been, aware of the SWPPP requirement since it first applied for coverage under NPDES General Permit No. 1. Therefore, \$1,000 is assessed for this factor.

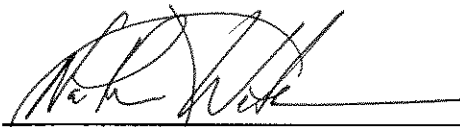
The total penalty calculation is \$3,000.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Barker. By signing this Order all rights to appeal this Order are waived.

**VIII. NONCOMPLIANCE**

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



Dated this 28<sup>th</sup> day of April, 2014



CHUCK GIPP, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6<sup>th</sup> day of May, 2014

Barker Specialty Products, LLC; Field Office 6; Jeff Prier; Aaron Brees; I.C.7.b.